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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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JUN 19 1997

Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
Policies and Rules Pertaining ) CCB/CPD 97-19  
to Local Exchange Carrier "Freezes" ) (RM-9085)  
on Consumer Choices of Primary )  
Local Exchange or Interexchange Carriers )

REPLY COMMENTS OF  
SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint"), pursuant to the Commission's Public Notice (DA-97-942), released May 5, 1997, hereby respectfully submits its reply comments on the Petition for Rulemaking filed by MCI Telecommunications Corporation ("MCI") in the above-captioned proceeding.

There is no question that slamming has been and remains a serious problem. There is also no question that subscribers should be able to protect themselves against slamming by having their PICs "frozen." Sprint does not believe that MCI is suggesting a rulemaking to consider these questions.

Rather, a rulemaking is necessary to consider the issue of discrimination in the imposition and removal of PIC freezes. There is an urgent need to prevent the PIC freeze process from being used as an anticompetitive tool by

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incumbent local carriers as they begin to compete, or increase their competitive efforts, in the intraLATA and interLATA markets. Incumbent carriers should not be able to discriminate against their competitors and thereby gain unfair advantages either in protecting their incumbency or in entering newly-opened markets.

This difficulty is not theoretical. It is an ongoing and increasingly serious problem that has already spawned substantial anticompetitive behavior. As Sprint noted in its comments, the PIC freeze programs initiated by Ameritech, SNET, GTE, New York Telephone and SBC are, to a greater or lesser extent, discriminatory. For the most part, these programs are still in existence, and they are still causing palpable harm. None of the comments filed in response to MCI's petition suggest a plausible reason why the Commission should not undertake immediate action against the existing discriminatory environment by initiating a rulemaking.

Some commenters have claimed that MCI has ignored the problem of slamming and suggest that MCI's petition should be considered as part of a broader investigation by the Commission to promulgate rules concerning carrier selection in all markets in compliance with Section 258 of the 1996 Act.<sup>1</sup> Sprint, of course, recognizes that the Commission

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<sup>1</sup> ALLTEL at 2-4; BellSouth at 3; SNET at 1-2; and Southwestern Bell at 3-6.

should undertake a comprehensive investigation as contemplated by Section 258 which would include the slamming issue. However, if the PIC freeze problem is not addressed until a broad investigation is undertaken, Sprint is concerned that any remedy will be delayed considerably. At this critical juncture for competitive entry into the local and intraLATA toll markets, the imposition of rules to regulate PIC freeze abuses should not be delayed by perhaps several years while the Commission considers other related issues. The PIC freeze problem can be considered independently of other problems concerning carrier selection or slamming, and a rulemaking needs to be undertaken and completed expeditiously. The Commission should not allow such rulemaking to become mired down in a more general and more complex investigation.

Instead of delaying an examination of discrimination related to PIC freeze practices, the Commission can return to this issue and to the possible establishment of a neutral entity to administer PIC freezes (as recommended by Sprint in its comments, p. 3), if it believes such a course to be justified, when it commences a Section 258 proceeding. Because of the natural disconnect between the incentive of carriers to advantage themselves and protect their customer bases and the neutrality required in the PIC freeze process, Sprint believes that in the long term the role of individual

carriers should be replaced by a neutral entity. By definition, competitors are ill-suited to function as neutrals.

Sprint disagrees with Bell Atlantic and NYNEX (at 1, fn.1) that the Commission does not have jurisdiction to regulate PIC freezes for intraLATA and local service. As Southwestern Bell states (at 5), "Section 258(a) requires Commission-prescribed verification procedures governing both the submission and execution by carriers of changes in subscribers' selection of providers of telephone exchange service or telephone toll service."<sup>2</sup> Thus, the Commission has ample authority to regulate PIC freezes for intraLATA, interexchange and local services.

Bell Atlantic and NYNEX (at 3) comment that "[g]iven the large number of slamming complaints that the Commission continues to receive, limiting the use of PIC freezes would send the wrong message to consumers and the industry, and would be contrary to the letter, spirit and primary goal" of earlier Commission orders. The purpose of the rulemaking would not be to limit in any way the use of the PIC freeze, but rather to place rules on the methods used to initiate and remove PIC freezes. The message that would be sent to consumers is that they will continue to be protected from slamming by PIC freezes. The message that would be sent to

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<sup>2</sup> See, also, BellSouth at 3.

the industry is that anticompetitive behavior associated with PIC freezes will not be tolerated. This is not contrary to any Commission order.

BellSouth (at 2-3) points out that complaints regarding the processes of some LECs do not necessarily apply to all LECs.<sup>3</sup> Other LECs suggest that specific abuses should be addressed through the complaint process.<sup>4</sup> It is true, as might be expected, that some LECs have used the PIC freeze process more aggressively than others, while others (including Sprint) have used in it a competitively neutral manner. But this does not mean that a rulemaking is unnecessary. The fact that not all carriers discriminate does not mean that the Commission does not need to adopt rules to prevent discrimination. As noted, discrimination in the implementation and removal of PIC freezes is already a serious problem, and its practice is open and widespread. Under these circumstances, a resort to the complaint process alone would seem both an insufficient remedy and a waste of the Commission's resources. The first thing to do is to establish basic ground rules which can then be enforced through the complaint process. To address abuses on a case-by-case basis through the complaint process absent such ground rules will lead to fragmented and delayed responses.

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<sup>3</sup> See, also, GTE at 1.

<sup>4</sup> Bell Atlantic and NYNEX at 4; GTE at 1.

Some of the commenting parties oppose providing carriers information about customers who have installed PIC freezes.<sup>5</sup> Sprint's primary concern here is discrimination. If PIC freeze information is considered to be CPNI which cannot be disclosed, then it should not be used by the LEC or its affiliates for their marketing purposes. If it is not so considered, and if it is used by the LECs to market their services, it should be available to their competitors.

Southwestern Bell claims that it "provides PIC protection only when specifically requested by a customer" (at 7) and that "Pacific Bell and Nevada Bell do not market, advertise, or actively solicit PIC protection" (at 8). This is as it should be. However, not all LECs follow such policies. As Sprint explained in its comments, Ameritech and SNET campaigned to induce their customers to freeze their accounts around the same time that competition was being introduced in their local and 1+ intraLATA markets (at 5-8). The rulemaking is intended to address such anticompetitive activities.

Further debate over the specifics of the rules should be part of the rulemaking process itself where issues relating to the provision of customer information to all carriers and the specific procedures to freeze and unfreeze accounts can be addressed. Here the fundamental issue is

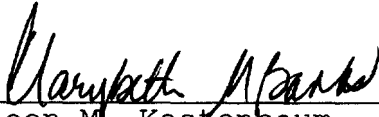
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<sup>5</sup> Bell Atlantic and NYNEX at 5; Citizens at 8-9; GTE at 7-8; and Southwestern Bell at 14-15.

whether or not the Commission should institute a rulemaking to develop regulations for the PIC freeze process. As noted, Sprint strongly supports this initiative and urges the Commission to proceed promptly in order to avoid additional anticompetitive use of the PIC freeze process and to eliminate discrimination in the information provided or procedures used.

Respectfully submitted,

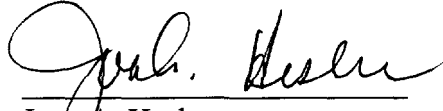
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June 19, 1997

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